

IN THE UNITED STATES DISTRICT COURT  
 FOR THE NORTHERN DISTRICT OF CALIFORNIA

PAREN HASMUKHBHAI PATEL,

Plaintiff,

v.

THOMAS MADRID,

Defendant.

No. C 13-03747 EJD (PR)

ORDER DIRECTING PLAINTIFF  
TO PROVIDE COURT WITH  
MORE INFORMATION FOR  
DEFENDANT THOMAS MADRID

Plaintiff, proceeding pro se, filed a third amended civil rights complaint pursuant to 42 U.S.C. § 1983. (Docket No. 1.) The Court ordered service upon Defendant Thomas Madrid on April 22, 2014, and a Notice of Lawsuit and Request for Waiver of Service of Summons was mailed to Defendant at Salinas Valley State Prison (“SVSP”) where Plaintiff indicated he could be served. (Docket No. 12.) On May 9, 2014, the package mailed to SVSP was returned with a notation that delivery had been “attempted,” that the recipient was “not known,” and that the package was unable to be forwarded. (Docket No. 13.) Accordingly, Defendant Thomas Madrid has not been served.

Although a plaintiff who is incarcerated and proceeding in forma pauperis may rely on service by the Marshal, such plaintiff “may not remain silent and do nothing to

1 effectuate such service”; rather, “[a]t a minimum, a plaintiff should request service upon  
2 the appropriate defendant and attempt to remedy any apparent defects of which [he] has  
3 knowledge.” Rochon v. Dawson, 828 F.2d 1107, 1110 (5th Cir. 1987). Here,  
4 Plaintiff’s complaint has been pending for over 120 days, and thus, absent a showing of  
5 “good cause,” is subject to dismissal without prejudice. See Fed. R. Civ. P. 4(m).

6 Because Plaintiff has not provided sufficient information to allow the Marshal to  
7 locate and serve Defendant Madrid, Plaintiff must remedy the situation or face dismissal  
8 of his claims against this defendant without prejudice. See Walker v. Sumner, 14 F.3d  
9 1415, 1421-22 (9th Cir. 1994) (holding prisoner failed to show cause why prison  
10 official should not be dismissed under Rule 4(m) where prisoner failed to show he had  
11 provided Marshal with sufficient information to effectuate service). Accordingly,  
12 Plaintiff must provide the Court with accurate and current address for Defendant  
13 Madrid such that the Marshal is able to effect service. Plaintiff must file a notice  
14 providing the Court with an accurate and current address for Defendant Madrid such  
15 that the Marshal is able to effect service. If Plaintiff fails to provide the Court with an  
16 accurate and current address for Defendant Madrid **within thirty (30) days** of the date  
17 this order is filed, Plaintiff’s claims against this Defendant will be dismissed without  
18 prejudice pursuant to Rule 4(m) of the Federal Rules of Civil Procedure, and this action  
19 closed.

20  
21 DATED: 7/3/2014



EDWARD J. DAVILA  
United States District Judge

UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

PAREN HASMUKHBHAI PATEL,

Case Number CV 13-03747 EJD (PR)

Plaintiff,

v.

**CERTIFICATE OF SERVICE**

THOMAS MADRID,

Defendant.

\_\_\_\_\_/

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on 7/3/2014, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) inter-office delivery receptacle located in the Clerk's office.

**Paren Hasmukhbhai Patel**  
P-99858  
Salinas Valley State Prison  
P. O. Box 1050  
Soledad, CA 93960

DATED: 7/3/2014

Richard W. Wieking, Clerk  
/s/ By: Elizabeth Garcia, Deputy Clerk